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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/354,080

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MASSIMO BALESTRI

21197

4578

22852

7590

03/31/2009

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EXAMINER

DADA, BEEMNET W

ART UNIT

PAPER NUMBER

2435

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/354,080	Applicant(s) BALESTRI ET AL.	
	Examiner BEEMNET W. DADA	Art Unit 2435	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 4 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/2/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in reply to an amendment filed on January 14, 2009. Claims 1 and 8 have been amended. Claims 1-15 are pending.

In the non final office action mailed September 02, 2008, claims 1-15 were indicated to be allowable if rewritten to overcome claim objections and 35 USC 112 2nd rejections indicated in the office action. However, the indicated allowability of claims 1-15 is withdrawn in view of the newly discovered reference(s) to Campinos et al. (US 6,035,038) and Newby et al. US (6,108,422) [Related to foreign patents submitted with IDS filed on 02/20/09]. The Office regrets any inconvenience this may have caused the applicant.

Response to Arguments

Applicant's arguments, filed 01/14/2009, with respect to claim objections and 35 USC 112 2nd rejections have been fully considered and are persuasive in view of claim amendments. The objections and 35 USC 112 2nd rejections of claims 1-15 has been withdrawn.

Claim Objections

Claims 4 and 11 recites the limitation "said/the single removable user unit". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newby et al. US 6,108,422 (hereinafter Newby) in view of Campinos et al US 6,035,038 (hereinafter Campinos).

As per claims 1 and 8, Newby teaches a method for the controlled delivery of digital services by a plurality of providers to a user, wherein said services are identified by respective stream of encoded digital data emitted by said plurality of providers and the user is provided with a receiver and a single user to receive said digital data streams by said plurality of providers, the receiver being selected to make use of determined services of a given provider of said plurality, the method comprising the steps of:

incorporating by each of said plurality of providers into said digital data streams a respective enabling algorithm generated by the provider and specific of the provider for the use of respective determined services of said plurality of providers (i.e., Algorithms A and B, column 3, lines 49-59, column 4, lines 22-28,

incorporating into said digital data streams respective authorization data of selective users to receive said determined services (i.e., EMM containing authorization data of user device, column 4, lines 33-38)

selectively loading said enabling algorithm of at least two of the plurality of providers in said digital streams into the user unit of at least one of the selective users based on the respective authorization of the user devices and wherein said enabling algorithms of at least two of the plurality of providers are concurrently available on the user unit for the at least one of the selective users to make use of said respective determined services of said at least two of the plurality of providers [column 4, lines 34-55 and column 9, lines 17-21], and

associating to said user unit a processing function for recognizing and executing said enabling algorithm based on authorization of user devices for the receivers of the selective users to make use of said respective determined services of said plurality of providers.

Newby is silent on identifying codes of selective users. However, it is old and well known to transmit identifying codes of selective user to receive determined services, which has the advantage of preventing unauthorized use of transmitted data thereby enhancing security of the system. For example, Campinos teaches a conditional access system, including incorporating into said digital data streams respective identifying codes of selective users to receive said determined services (i.e., EMM containing address AD of the user, column 5, lines 5-36). Therefore it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to employ the teachings of Campinos within the system of Newby in order to enhance the security of the system.

As per claims 2 and 9, Newby further teaches the method which comprises the step of configuring said single removable user unit as a movable processing support uniquely assigned to said users [column 6, lines 45-50].

As per claims 3, 10 and 15, Newby further teaches the method which comprises the step of configuring said single removable user unit as a smart card [column 6, lines 45-50].

As per claims 5 and 12, Newby further teaches configuring said digital data streams as MPEG data streams containing EMM messages, inserting said identifying code in to the EMM messages, activating, through said single removable user unit and upon reception of said respective enabling algorithm, the performance of the following functions: extracting, reading

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and deciphering the EMM messages contained in the digital data stream received, interpreting said identification code contained in the EMM messages, executing said enabling algorithm by exploiting said identification code [column 4, lines 34-55 and column 9, lines 17-21].

As per claims 6 and 13, Newby further teaches the method wherein said respective enabling algorithm is incorporated in to a stream of private data within said digital data stream [column 4, lines 34-55 and column 9, lines 17-21].

As per claims 7, 14 Newby further teaches the method wherein upon reception of said enabling algorithm, said processing function causes said receiver to operate as transmitters to transmit information about the delivery of the service itself [column 4, lines 34-55 and column 9, lines 17-21].

Allowable Subject Matter

Claims 4 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BEEMNET W. DADA whose telephone number is (571)272-3847. The examiner can normally be reached on Monday - Friday (9:00 am - 5:30 pm).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Beemnet W Dada/
Examiner, Art Unit 2435
March 26, 2009